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OFFICE OF PETITIONS

In re Patent No. 7,039,720 :
Alfieri et al. :
Issue Date: May 2, 2006 :
Application No. 10/000,191 : DECISION ON REQUEST FOR
Filed: October 19, 2001 : CERTIFICATE OF CORRECTION
Attorney Docket No. P63978-USP:

This letter is in response to the "37 CFR 1.322 & 37 CFR 1.323 REQUEST FOR CERTIFICATE OF CORRECTION FOR USPTO AND/OR APPLICANT MISTAKE," filed November 20, 2008, requesting correction of the patent term adjustment indicated in the patent. With respect to the patent term adjustment, patentee requests the Office to delete "611" and insert -733-.

The request is DISMISSED.

Patentee is given **THIRTY (30) DAYS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

On May 2, 2006, the above-identified application matured into U.S. Patent No. 7,039,720 with a revised patent term adjustment of 611 days. The instant request was filed on November 20, 2008, more than two years after issuance of the patent.


Issuance of a certificate of correction under § 1.322 is permitted if an error in the patent is shown. No error in the patent has been shown. The patent term adjustment indicated in the patent reflects the patent term adjustment shown in the PALM (and presumably PAIR) system for this application. Accordingly, no certificate of correction will be issued to change the PTA under 37 C.F.R. § 1.322 (or § 1.323).

Patentees are advised that the filing of a certificate of correction is not an alternative to the procedure set forth in 37 CFR § 1.705. Patentees contesting the underlying determination, rather than an alleged printing error, have to avail themselves of the time frames stated in § 1.705(d). Moreover, § 1.705(d), states "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within 2 months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Thus, the request must be timely filed and must include payment of the required fee.

This instant request did not include the required fee for consideration pursuant to 37 CFR 1.705(d). More importantly, this request was made more than 2 years after the issuance of the patent. As such, even with the required fee, it would be appropriate to dismiss this request as untimely filed.

The Certificates of Correction branch has been advised of this decision. The application is, thereby, forwarded to the Certificates of Correction branch for consideration of the accompanying request for correction of errors in the patent (in Column 8, Line 15 as alleged in the request for Certificate of Correction filed November 20, 2008).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.



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